

## **HUMAN SERVICES DEPARTMENT[441]**

### **Notice of Intended Action**

Pursuant to the authority of Iowa code section 225.6 and 2016 Iowa Acts, house file 2460, the Department of Human Services hereby gives Notice of Intended Action to amend Chapter 22, “Autism Support Program,” Iowa Administrative Code.

These amendments are proposed in accordance with legislative changes to Iowa Code 225D and change program eligibility requirements in accordance with legislation (2016 Iowa Acts, HF2460). These amendments also clarify existing program eligibility requirements to ensure uniform application of the Autism Support Program.

Any interested person may make written comments on the proposed amendments on or before September 6, 2016. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 5<sup>th</sup> Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by email to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A, 217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa code section 225D.2(5)”b” and SFY 2016 Iowa Acts, house file 2460.

The following amendments are proposed.

ITEM 1. Amend rule ~~441—22.1(225D)~~, definitions of, “Autism service provider,” “Household income,” and “Household size” as follows:

“Autism service provider” means a person providing applied behavioral analysis, who meets all of the following criteria:

1. ~~Is certified as a behavior analyst by the Behavior Analyst Certification Board or is a health professional licensed under Iowa Code chapter 147.~~ Is any of the following:

a. Is certified as a behavior analyst by the Behavior Analyst Certification Board, is a psychologist licensed under Iowa Code chapter 154B, or is a psychiatrist licensed under Iowa Code chapter 148.

b. Is a board-certified assistant behavior analyst who performs duties, identified by and based on the standards of the behavior analyst certification board, under the supervision of a board-certified behavior analyst.

2. No change

“Household income” means household income reported on the tax return where the eligible individual is claimed as a dependent as determined using the modified adjusted gross income methodology pursuant to Section 2002 of the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148. If the eligible individual’s parents live together and file separate tax returns, the income reported on both parents’ tax returns must be combined.

“Household size” means the total number of personal and dependent exemptions claimed on the tax return where the eligible individual is claimed as a dependent plus any child under age 19 living in the household who is claimed for tax purposes by a non-custodial parent through a release of claim to exemption by the custodial parent.

ITEM 2. Amend rule 441—22.2(225D) as follows:

**441—22.2(225D) Eligibility and application requirements.** To be determined eligible for funding for services through the autism support program, an individual must meet the following requirements:

**22.2(1)** An individual shall submit an application to the ~~administrator of the program~~ department using a standardized application form available through the administrator's and the department's Web sites, members of the provider network, the regional autism assistance program, and advocacy organizations.

**22.2(2)** An applicant for autism program services shall be less than the age of ~~nine~~ fourteen at the time of application for the program. Proof of age must be provided at the time of application. An individual who reaches the age of ~~nine~~ fourteen prior to receipt of the maximum benefits of the program may continue to receive services from the program in accordance with the individual's treatment plan, up to a maximum of 24 months of applied behavioral analysis treatment.

**22.2(3)** No change.

**22.2(4)** An individual shall be determined ineligible for coverage of applied behavioral analysis services under the medical assistance program, Iowa Code section 514C.28, or private insurance coverage. Proof of insurance coverage and noneligibility for coverage for applied behavioral analysis shall be provided at the time of application- and shall include a written denial of coverage or a benefits summary indicating the applied behavioral analysis treatment is not a covered benefit for which the applicant is eligible under the Medicaid program, Iowa Code section 514C.28, or private insurance coverage.

**22.2(5)** An individual shall have a household income equal to or less than ~~400~~ 500 percent of the federal poverty level. Information needed to determine household income using modified

adjusted gross income methodology shall be identified on the program application. Household size will be determined according to the standards in this chapter. The information shall be provided at the time of application.

**22.2(6)** The ~~administrator~~ department shall provide to the parent or guardian a written notice of decision determining initial eligibility or denial within 30 calendar days of receipt of the application.

**22.2(7)** The ~~administrator~~ department shall refer an applicant determined to be an eligible individual to care coordination services. The referral will occur within 5 business days of determination of eligibility for the program. Care coordination services will be provided by the University of Iowa regional autism assistance program (RAP) or an integrated health home. Eligible individuals who reside in counties where integrated health homes for children with a serious emotional disturbance are operational may choose to receive care coordination through the University of Iowa RAP program or an integrated health home that serves residents of the eligible individual's county of residence. Care coordination is not required as a condition of receiving services through the autism support program.

**22.2(8)** ~~For individuals determined eligible for the program but unable to access services due to lack of available providers, the administrator shall maintain a list of such individuals and shall work to connect eligible individuals on the list to network providers. The~~ department shall provide information on any available administrator to an applicant determined to be an eligible individual. The eligible individual may choose any available administrator.

**22.2(9)** ~~The administrator shall stop processing applications at the point where available funds are fully obligated for eligible individuals and additional eligible individuals would cause expenditures in IAC 2/19/14 Human Services[441] Ch 22, p.3 excess of the funds available to~~

~~the program. The administrator shall maintain a waiting list of individuals denied access to the program due to lack of available funds. If additional funds become available, the administrator shall contact individuals on the list in order of the earliest date and time of the receipt of the original application. The applicant shall be allowed 30 calendar days to submit an updated application and any required information needed to determine eligibility. If the applicant does not submit required information, the applicant will be denied eligibility and removed from the waiting list maintained for individuals denied access to the program due to lack of funding. The age of the applicant at the time of the most recent application will be used when determining eligibility for the program. For individuals determined eligible for the program but unable to access services due to lack of available providers, the administrator shall maintain a list of such individuals and shall work to connect eligible individuals on the list to network providers.~~

22.2(10) The department shall stop processing applications at the point where available funds are fully obligated for eligible individuals and additional eligible individuals would cause expenditures in excess of the funds available to the program. The department shall maintain a waiting list of individuals denied access to the program due to lack of available funds. If additional funds become available, the department shall contact individuals on the list in order of the earliest date and time of the receipt of the original application. The applicant shall be allowed 30 calendar days to submit an updated application and any required information needed to determine eligibility. If the applicant does not submit required information, the applicant will be denied eligibility and removed from the waiting list maintained for individuals denied access to the program due to lack of funding. The age of the applicant at the time of the most recent application will be used when determining eligibility for the program.

ITEM 3. Amend rule **441—22.3(225D)** as follows:

**441—22.3(225D) Cost-sharing requirements and graduated schedule of cost sharing.**

**22.3(1)** An individual with a household income equal to or greater than 200 percent of the federal poverty level, up to a maximum of ~~400~~500 percent of the federal poverty level, shall be subject to cost-sharing requirements. Cost sharing shall be implemented incrementally up to a maximum of ~~40~~15 percent of the costs of the services provided through the program for an individual with a household income equal to ~~400~~500 percent of the federal poverty level. The following is a chart of the cost-sharing requirements:

<b>Family income as a % of FPL</b>	<b>% of cost sharing of service costs</b>	<b>Family income as a % of FPL</b>	<b>% of cost sharing of service costs</b>
200%	<del>.476%</del>	310%	<del>5.712%</del>
210%	<del>.952%</del>	320%	<del>6.188%</del>
220%	<del>1.428%</del>	330%	<del>6.664%</del>
230%	<del>1.904%</del>	340%	<del>7.14%</del>
240%	<del>2.38%</del>	350%	<del>7.616%</del>
250%	<del>2.856%</del>	360%	<del>8.092%</del>
260%	<del>3.332%</del>	370%	<del>8.568%</del>
270%	<del>3.808%</del>	380%	<del>9.04%</del>
280%	<del>4.284%</del>	390%	<del>9.516%</del>
290%	<del>4.76%</del>	400%	<del>9.992%</del>
300%	<del>5.236%</del>		

<b>Family income as a % of FPL</b>	<b>% of cost-sharing of service costs</b>	<b>Family income as a % of FPL</b>	<b>% of cost-sharing of service costs</b>
<u>200-209%</u>	<u>0.5%</u>	<u>350-359%</u>	<u>8.0%</u>
<u>210-219%</u>	<u>1.0%</u>	<u>360-369%</u>	<u>8.5%</u>
<u>220-229%</u>	<u>1.5%</u>	<u>370-379%</u>	<u>9.0%</u>
<u>230-239%</u>	<u>2.0%</u>	<u>380-389%</u>	<u>9.5%</u>
<u>240-249%</u>	<u>2.5%</u>	<u>390-399%</u>	<u>10.0%</u>
<u>250-259%</u>	<u>3.0%</u>	<u>400-409%</u>	<u>10.5%</u>
<u>260-269%</u>	<u>3.5%</u>	<u>410-419%</u>	<u>11.0%</u>
<u>270-279%</u>	<u>4.0%</u>	<u>420-429%</u>	<u>11.5%</u>
<u>280-289%</u>	<u>4.5%</u>	<u>430-439%</u>	<u>12.0%</u>
<u>290-299%</u>	<u>5.0%</u>	<u>440-449%</u>	<u>12.5%</u>
<u>300-309%</u>	<u>5.5%</u>	<u>450-459%</u>	<u>13.0%</u>
<u>310-319%</u>	<u>6.0%</u>	<u>460-469%</u>	<u>13.5%</u>
<u>320-329%</u>	<u>6.5%</u>	<u>470-479%</u>	<u>14.0%</u>
<u>330-339%</u>	<u>7.0%</u>	<u>480-489%</u>	<u>14.5%</u>

<u>340-349%</u>	<u>7.5%</u>	<u>490-500%</u>	<u>15.0%</u>
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**22.3(2)** An individual may request an exemption from cost sharing due to financial hardship. To qualify for an exemption, an individual shall submit written documentation to the ~~administrator~~ department that the individual or the individual's family does not have the financial means to fulfill cost-sharing requirements.

**22.3(3)** Criteria to determine financial hardship include, but are not limited to, a change in income, change in employment of the parent or guardian, additional medical expenditures, other family members' health conditions, or other conditions which may affect the ability to fulfill cost-sharing requirements. The ~~administrator~~ department shall provide a written determination regarding eligibility for exemption from cost-sharing requirements. Eligibility for exemption from cost sharing expires at the end of the financial eligibility period.

ITEM 4. Amend rule ~~441—22.4(225D)~~ as follows:

**~~441—22.4(225D)~~ Review of financial eligibility, cost-sharing requirements, exemption from cost sharing, and disenrollment in the program.**

**22.4(1) – 22.4(2)** No change.

**22.4(3)** The ~~administrator~~ department shall provide a written notice of decision determining ongoing eligibility or denial within 15 calendar days of receipt of the continued financial eligibility documentation.

**22.4(4)** If the signed application and verification of continuing eligibility are not received by the ~~administrator~~ department by the last working day of the renewal month, the individual's eligibility for the program shall be terminated.

**22.4(5)** No change.

ITEM 5. Amend subrule **22.5(5)** as follows:

**22.5(5)** The treatment plan may include services provided by staff with a minimum of a bachelor's degree in a human services or education field, working under the supervision of an autism service provider who is board-certified as a behavior analyst. The treatment plan shall identify which services shall be provided directly by the ~~autism service provider~~ board certified behavior analyst and which services shall be provided by staff under the supervision of ~~the autism service provider~~ a board certified behavior analyst.

ITEM 6. Amend rule **441—22.6(225D)** as follows:

**441—22.6(225D) Provider network.** The administrator shall establish and maintain a network of department-approved autism service providers so that applied behavioral analysis services are available to eligible individuals statewide to the maximum extent possible.

**22.6(1)** A provider shall be approved to participate in the autism support program provider network if the provider meets one of the following standards in paragraph 22.6(1) “a,” “b” or “c”:

a. No change.

b. The autism service provider is a psychologist licensed under chapter 154B ~~health professional licensed under Iowa Code chapter 147. A health professional licensed under Iowa Code chapter 147 who does not hold a current certification as a board-certified behavior analyst shall provide evidence of training in applied behavioral analysis and be licensed as a mental health professional under Iowa Code section 228.1(6); or~~

c. The autism service provider is a psychiatrist licensed under chapter 148.

~~e.d.~~ A provider shall be deemed eligible to participate in the autism support program provider network if the autism service provider meets the standards in paragraph 22.6(1) “a,” or



“b” or “c” and the provider is approved to provide applied behavioral analysis services through Medicaid.

**22.6(2)** No change.

**22.6(3)** The ~~administrator~~ department is responsible for calculating the cost-sharing amount according to standards established in this chapter.

**22.6(4)** No change.

ITEM 7. Rescind rule **441—22.7(225D)** and adopt the following new rule in lieu thereof:  
**441—22.7(225D)** Financial management of the program.

**22.7(1)** The department shall:

a. Not take new applications for the program that would cause expenditures of the program to exceed the budgeted amount.

b. Limit expenditure of program funds to services for those individuals determined to be eligible individuals and for related administrative costs.

c. Allocate available funds for eligible individuals’ services in a manner that allows for funding for all eligible individuals’ services authorized by the administrator without exceeding the department’s funding limits.

**22.7(2)** The administrator shall:

a. Limit annual expenditures for each eligible individual to the amount identified in Iowa Code section 225D.2(2)“a.”

b. Limit length of service through the program to the amount identified in Iowa Code section 225D.2(2)“b.”

c. Limit payment for applied behavioral analysis services to an hourly or equivalent quarter-hour unit rate that is equal to the contracted rate currently paid by Medicaid for applied behavioral analysis services.

d. Limit payment for integrated health home services to an amount consistent with the monthly per-member per-month amount paid by Medicaid to approved providers of integrated health home services for children with a serious emotional disturbance.

e. Not provide financial compensation to the University of Iowa regional autism assistance program for care coordination services.

## Information on Proposed Rules

Name of Program Specialist Connie Fanselow	Telephone Number 515-725-0131	E-mail Address <a href="mailto:cfansel@dhs.state.ia.us">cfansel@dhs.state.ia.us</a>
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1. Give a brief summary of the rule changes: <ul style="list-style-type: none"> <li>Change program eligibility requirements per legislation</li> <li>Clarify existing program eligibility requirements for more uniform application</li> </ul>
2. What is the reason for the Department to request these changes? <ul style="list-style-type: none"> <li>To reflect changes to Iowa Code Chp. 225D enacted in 2015 and 2016; allow for multiple program administrators; clarify program eligibility requirements.</li> </ul>
3. What will be the effect of the rule adoption? (who, what, when, how)? <ul style="list-style-type: none"> <li>More children will be eligible for funding through the Autism Support Program due to expanded age and income limitations.</li> </ul>
4. Is the change mandated by State or Federal Law? (Cite the authorizing state and federal statutes and federal regulations) <ul style="list-style-type: none"> <li>Yes, state law, Iowa Code Chp. 225D</li> </ul>
5. Will anyone be affected by this rule change? If yes who will be affected and will it be to the person(s) benefit or detriment? <ul style="list-style-type: none"> <li>Yes, this change will be beneficial to families of children with autism spectrum disorder diagnoses who are seeking funding assistance for applied behavior analysis services.</li> </ul>
6. What are the potential benefits of this rule? <ul style="list-style-type: none"> <li>The changes will allow older children (ages 9 to 14) to be eligible for ASP funding, and families with higher incomes (400% to 500% FPL) to be eligible for ASP funding.</li> <li>The changes will also clarify income eligibility requirements for the program.</li> <li>The changes will simplify the cost share calculation.</li> <li>The changes will clarify responsibilities of the department and program administrator.</li> </ul>
7. What are the potential costs, to the regulated community or the State of Iowa as a whole, of this rule? <ul style="list-style-type: none"> <li>The ASP is funded by state appropriation and limited to the amount appropriated. Current program expenditures are about \$432,000 annually and we expect these changes to increase costs by not more than 25%.</li> </ul>
8. Do any other agencies regulate in this area? If so, what agencies and what Administrative Code Sections apply? <ul style="list-style-type: none"> <li>This is a non-Medicaid program regulated by DHS.</li> </ul>
9. What alternatives to direct regulation in this area are available to the agency? Why were other alternatives not used? <ul style="list-style-type: none"> <li>Changes to the governing statute require the existing rule to be aligned.</li> </ul>
10. Does this rule contain a waiver provision? If not, why? <ul style="list-style-type: none"> <li>No, these amendments do not include a waiver provision because they are required by Iowa Code.</li> <li>Individuals may request a waiver under the Department's general rule for exceptions IAC 441-1.8.</li> </ul>
11. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee) <ul style="list-style-type: none"> <li>No.</li> </ul>

## ADMINISTRATIVE RULE FISCAL IMPACT STATEMENT

Date: 7/7/16

**Agency:** Human Services

**IAC citation:** 441 IAC

**Agency contact:** Connie Fanselow

**Summary of the rule:**

Change program eligibility requirements per legislation.

Clarify existing program eligibility requirements for more uniform application.

*Fill in this box if the impact meets these criteria:*

☐ No fiscal impact to the state.

☐ Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.

☐ Fiscal impact cannot be determined.

**Brief explanation:**

*Fill in the form below if the impact does not fit the criteria above:*

☒ Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

**Assumptions:**

Current program expenditures are about \$432,000 annually and we expect these changes to increase costs by not more than 25%.

**Describe how estimates were derived:**

Currently, expenditures average \$36,000 per month. It is estimated that these changes will increase expenditures by \$9,000 per month.

SFY 2017 7 months X \$9,000 = \$63,000

SFY 2018 12 months X \$9,000 = \$108,000

<i>Estimated Impact to the State by Fiscal Year</i>		
	<u>Year 1 (FY 2017 )</u>	<u>Year 2 (FY 2018 )</u>
<b>Revenue by each source:</b>		
General fund		
Federal funds		
Other (specify):		
<b>TOTAL REVENUE</b>		
<b>Expenditures:</b>		
General fund	63,000	108,000
Federal funds		
Other (specify):		
<b>TOTAL EXPENDITURES</b>	<b>63,000</b>	<b>108,000</b>
<b>NET IMPACT</b>	<b>63,000</b>	<b>108,000</b>
<p>_____ This rule is required by state law or federal mandate.  <i>Please identify the state or federal law:</i></p> <p>X Funding has been provided for the rule change.</p> <p>_____ <i>Please identify the amount provided and the funding source:</i>  The ASP is funded by \$2M allocated from the Medical Contracts appropriation. Typically, these funds are not fully expended, so effect of these changes will result in a reduced year end surplus of this allocation.</p> <p>_____ Funding has not been provided for the rule.  <i>Please explain how the agency will pay for the rule change:</i></p>		
<p><b><i>Fiscal impact to persons affected by the rule:</i></b>  This change will be beneficial to families of children with autism spectrum disorder diagnoses who are seeking funding assistance for applied behavior analysis services.</p>		
<p><b><i>Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):</i></b>  N/A.</p>		
<p>Agency representative preparing estimate: Brad Neuweg  Telephone number: 281-0189</p>		